IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPLICATION NO.88 OF 1999

The Commissioner of Income tax ..Petitioner.

V/s.

Rediffusion Advertising Pvt. Ltd. ..Respondent.

Mr.P.S. Sahadevan for petitioner.

Mr.Percy Pardiwalla i/b. M/s.Matabhai Janietram for respondent.

CORAM : DR. S.RADHAKRISHNAN AND J.P.DEVADHAR, JJ.

DATED : 6TH MARCH, 2007.

ORAL JUDGMENT (PER DR.S.RADHAKRSIHNAN, J.)

Heard the learned counsel for the petitioner and the respondent. The above application was admitted on the following question of law:-

> " Whether on the facts and in the circumstances of the case and in law, the Tribunal was right in holding that the assessee should be grated as an Industrial Company ? "

2. The above application pertains to assessment year 1980-81.

3. The Tribunal in its order dated 17th September, 1988 has relied on the orders with regard to the assessee's own case for the assessment years

1982-83, 1983-84 and 1984-85 wherein the assessee was treated as an Industrial Company. In the earlier order the finding recorded is as follows:-

> " In our view, transition of advertising ideas, concepts into visual or audio visual material by application of modern technology and equipment involves manufacture as well as processing of goods to a considerable extent. Although, as contended on behalf of the Department, the Advertising agency may not sell such products as such, it derives its income from the appropriate display or exhibition and propagation of such material. The assessee advertising agency can, therefore, legitimately claim to be engaged in manufacture or processing of goods within the meaning of section 2(7) (c) of the Finance Act, 1978 ? "

4. The learned counsel for the respondents also states that with regard to another Advertising agency namely in the case of **Commissioner of Income Tax V/s. Shilpi Advertising Ltd.** reported in **(2003) 263 I.T.R. 479** it was held by the Supreme Court that the respondent Company therein to be an "industrial company" for the purpose of concessional rate of tax under the Finance Act. In view thereof, the issue is squarely covered by the above Judgment. Hence Rule stands discharged.

5. Application stands disposed of.

(DR.S.RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)